

REMARKS

Reconsideration of this Application is respectfully requested. Claims 1-6 are amended, without prejudice or disclaimer. Claims 1-6 are in this case.

Initially, the Examiner rejected claims 4, 5 and 6 under 35 U.S.C. § 112, second paragraph, as failing to set forth the subject matter which Applicants regard as their invention. In particular, the Examiner takes the position that while the preamble of the claims sets forth an apparatus, the body of the claims include only method step limitations. The Examiner cites MPEP § 2114 as stating that although features of an apparatus may be recited either structurally or functionally, claims directed to an apparatus must be distinguished from the prior art in terms of structure rather than function. The Examiner explains that, in this case, there is no structure to the claims. He suggests that Applicants amend the preamble to make them method claims.

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Claims 4-6 are amended, accordingly, to better define the invention without limiting effect. Concurrently, each of claims 4-6 is voluntarily amended to clarify that the method is performed by - - a program controlled apparatus for transmitting the tax related data to the selected financial institution, reporting the data, and remitting the funds corresponding to the data to the selected government authority over an interactive communications network - -, and, in view of their conversion to method claims, to clarify that the selected steps are performed by - - the apparatus - -.

Applicants respectfully note the following additional voluntary amendments are made to the claims.

First, in claim 5, a typographical error “tot he” is amended to correctly read - - to the - -.

Second, in claim 6, for consistency of language, the step “if a TXP-based file for the network is detected in the outbox, then no conversion is performed on the TXP-based file” is amended to read - - if a TXP-based file for the network is detected in the outbox, then performing no conversion on the TXP-based file - - (emphasis added).

Third, in the preamble of each of claims 1-6, a grammatical clarification is provided, namely, a comma is added after the step “reporting the data” or “reporting” by the “program controlled apparatus” and method performed thereby.

Based on the foregoing, withdrawal of the Examiner’s rejection under 35 U.S.C. § 112 is respectfully requested.

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Also, the Examiner rejected claims 1-6 under 35 U.S.C. § 103(a) as being obvious and, therefore, unpatentable over Cretzler, U.S. Patent No. 5,644,724, in view of Perkowski, U.S. Patent No. 6,625,581. According to the Examiner, Cretzler teaches a system and method which collects and remits taxes at point-of-sale (POS) locations. The system, the Examiner explains, includes a group of point-of-sale terminals that receive tax collection information (receiving transaction request), totals and stores the requests (storing transaction request into master request file in a database). The Examiner cites, in this connection, to column 2, lines 24-35, of Cretzler. Cretzler also discloses, says the Examiner, that a bank computer at a merchant bank receives the tax collection information from the merchant and wire transfers the collected sums to the tax authority (referencing column 2, lines 31-43). The Examiner notes that the process by which banks

wire money to a tax authority is via TPX. He finds it inherent that when the bank collects the information from the merchant, it must transfer that data into a TPX-based file in order to wire transfer the money to the tax authority.

Next, the Examiner finds that Cretzler teaches, for credit and debit transactions, the system obtaining approval for the intended transaction (citing column 4, lines 37-41). The Examiner notes that, in his view, this represents 3rd party verification of any request prior to transaction of tax related information. The Examiner continues, Cretzler also teaches that the customer is notified of the sums received on behalf of the merchant (in column 6, lines 1-5), noting that such represents allowing a 3rd party review of the TXP file.

The Examiner admits that Cretzler does not specifically teach the use of an XML-based transaction request. He then looks to Perkowski as purportedly teaching an Internet enabled POS terminal (i.e., in Figure 3A5). Specifically, the Examiner takes the position that Perkowski teaches the terminal transmitting transaction information via XML-based files in order to utilize Internet technologies. The Examiner concludes that it would have been obvious to a person having ordinary skill in the art at the time the invention was made to modify the system of Cretzler to include an Internet enabled POS terminal and XML-based transaction requests, as allegedly set forth by Perkowski, in order to utilize Internet technologies.

The Examiner notes that Miller, U.S. Patent No. 6,202,052, is made of record, though not relied upon, as pertinent to Applicants' disclosure for purportedly illustrating that TPX is the established format for wire taxes to the tax authority.

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Applicants, however, respectfully disagree with the Examiner's reading and application of the cited references.

Applicants' invention is directed to a novel program controlled apparatus, system and method for transmitting tax related data to a selected financial institution, reporting the data to a selected government authority, and periodically remitting funds corresponding to the taxes owed to the government authority over an interactive communications network, e.g., the Internet. Applicants' system is particularly well-suited for a state-certified, automated, *system for calculation of sales and/or use tax including sales and/or use tax for payments and accruals*, as well as an on-line service that utilizes relatively low cost, free public domain, CTOS Web technologies, open source and other Internet industry standard software. In this manner, tax collection, payment, and filing of tax returns may be done generally automatically for any party, including merchants and other taxpayers, who use the apparatus or method, or subscribe to a service using the same.

Applicants respectfully submit that, while Cretzler relates to a tax collection system and method for collecting and remitting taxes in real time at point-of-sale locations, he does not disclose nor does he suggest integration of an interactive communications network, such as the Internet, with a comprehensive transaction tax system, namely, for transmitting tax data to a financial institution, reporting the data to a selected government authority, nor remitting funds corresponding to the taxes owed to the authority, as claimed by Applicants. Indeed, Applicants respectfully state that, in view of the filing date of Cretzler, i.e., 1994 - prior to proliferation of the Internet in the late 1990's -, and the skill and expertise necessary for implementing a transaction tax system over a

network such as the Internet, it simply could not have been obvious to one skilled in the art to combine the teachings of Cretzler with those of Perkowski to arrive at Applicants' invention, as claimed.

Even if the references were combinable as such, we submit, the resulting combination would not disclose Applicants' invention. In this connection, Perkowski describes an Internet-based method and system for delivering product related data - UPC or bar code data, advertising, consumer product sales, inventory, web site data, and other data for management of consumer products. Applicants respectfully submit, Perkowski simply does not disclose or suggest application of such a method and system to transaction tax related data collection, reporting and tax payment functions, as set forth by Applicants. Nor does Perkowski disclose a system and methodology having the necessary hardware and software for handling the particularities of transaction tax operations.

Accordingly, neither Cretzler nor Perkowski, we respectfully submit, whether taken alone or in combination, disclose or suggest Applicants' invention, as claimed.

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Notwithstanding the foregoing, Applicants have additionally undertaken to amend claims 1-3 to better define Applicants' apparatus and system as providing services relating to transaction tax data computation, report remittance and funds transfer between a subscriber and a government authority over an interactive communications network. Furthermore, the claims are amended to clarify that the tax computation system of their invention computes sales and/or use tax including sales and/or use tax for payments and accruals. Applicants state that nowhere in the cited references is this aspect described or

inferred. To eliminate redundancy, the language "tax computation" which precedes the amended "sales and/or use tax" language above is deleted.

Based on the foregoing, withdrawal of the Examiner's rejection under § 103(a) is respectfully requested.

Applicants have made a good faith attempt to place this Application in condition for allowance. Favorable action is requested. If there is any further point requiring attention prior to allowance, the Examiner is asked to contact Applicants' counsel at (212) 768-3800.

Please charge any additional fees that may be required to our firm Deposit Account No. 50-0518.

Respectfully submitted,

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